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The Meaning of "Litter"

ALTHOUGH the Litter Act, 1958, would seem to have proved itself to be a useful weapon in the fight against litter, it is clear that magistrates and others are having difficulty in deciding what is and what is not "litter" for the purposes of this Act. For example, the magistrates at Oldham and Middlesbrough have recently been required to decide if a derelict motor vehicle is "litter" within the meaning of the Act. The Oldham magistrates took the view that an abandoned lorry loaded with scrap metal was "litter," but at Middlesbrough the stipendary magistrate, Mr. ALFRED PEAKER, said that he was not sure that members of Parliament intended this Act to apply to dilapidated motor cars deposited in the street. The Act itself does not contain a definition of "litter" but provides: "If any person throws down, drops or otherwise deposits in, into or from any place in the open air to which the public are entitled or permitted to have access without payment, and leaves, any thing whatsoever in such circumstances as to cause, contribute to, or tend to lead to, the defacement by litter of any public place in the open air, then, unless that depositing and leaving was authorised by law or was done with the consent of the owner, occupier or other person or authority having the control of the place in or into which that thing was deposited, he shall be guilty of an offence . . ." It appears, therefore, that if this offence is to be committed a person must (i) throw down, drop or otherwise deposit and (ii) leave (iii) any thing whatsoever which causes, contributes to or tends to lead to the defacement by litter of any public place in the open air. It should be comparatively easy to decide whether there has been a "depositing and leaving" sufficient to satisfy propositions (i) and (ii), but difficulties may arise, indeed, they have arisen, in deciding whether there has been a "defacement by litter." Putting aside for the moment the interpretation of the word "defacement," what is the meaning of "litter" in this context? A similar question arose in *Hills* v. *Davies* (1903), 88 L.T. 464, where Lord Alverstone, C.J., held that advertising bills thrown in the street could be "litter" within s. 60 (3) of the Metropolitan Police Act, 1839 (*cf.* a case in the West London Magistrates' Court reported in *The Times*, 8th January, 1959), but beyond this there does not appear to be any High Court decision as to the meaning of this word. The need for such a decision in relation to the 1958 Act is obvious. In this class of case the necessary public-spiritedness and means are perhaps more likely to be found on the prosecution side so that the "Middlesbrough" line of reasoning is more likely than the "Oldham" to get the matter ventilated.

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Belts and Boots

SECTION 1 (1) of the Prevention of Crime Act, 1953, provides that any person who without lawful authority or reasonable excuse has with him in any public place any offensive weapon shall be guilty of an offence. " Offensive weapon " means " any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him " (s. 1 (4)). Mr. G. G. RAPHAEL, the Marylebone magistrate, has recently decided that a metal-studded belt with certain decorative qualities did not come within this definition although its wearer was alleged to have attempted to strike another man with it. Further, he expressed the view that if a man removed his boots and began striking another person with them he would not be guilty of an offence under s. 1 of the 1953 Act. This decision and this view would seem to be supported by the decision of the Court of Criminal Appeal in *R.* v. *Jura* [1954] 2 W.L.R. 516, where LORD GODDARD, C.J., found that " the Act of 1953 is meant to deal with a person who goes out with an offensive weapon . . . without any reasonable excuse." There is no need to make an excuse for wearing boots and it appears that in the case of the belt Mr. Raphael believed that the accused had a " reasonable excuse " for wearing it if only because the belt adorned his person. On the other hand, in *Woodward* v. *Koessler* [1958] 1 W.L.R. 1255, DONOVAN, J., said that it is not necessary to prove that the prisoner took the article out with him for the purpose of causing injury if, while he is out with it, he uses it for that purpose. In that case, it will be remembered, it was held that a sheath knife of a type commonly used by boy scouts was, in the circumstances of the case, an " offensive weapon." In *R.* v. *Hutchinson* (1784), 1 Leach 339, it was decided that a common horsewhip was not an " offensive weapon " and in a footnote to that case it was said that " bludgeons, properly so called, clubs and anything that is not in common use for any other purpose but a weapon, are clearly offensive weapons within the meaning of the Legislature." However, although they could hardly be called bludgeons, sticks might be termed offensive weapons (*R.* v. *Turner* (1849), 3 Cox C.C. 304).

Trespass on the Highway

IN a recent case at the Thames Magistrates' Court a defendant declared that he had a right to stand on a pavement. The magistrate, Mr. LEO GRADWELL, assured him that " the law states you have only the right to walk up and down—not to stand there " and this statement has given rise to much comment. In *R.* v. *Pratt* (1855), 4 El. & Bl. 860, Erle, J., found that " if in fact a man be on land where the public have a right to pass and repass, not for the purpose of passing and repassing but for other and different purposes, he is in law a trespasser." However, this statement of the general rule must be read in the light of the finding of Lord Esher, M.R., in the celebrated case of *Harrison* v. *Duke of Rutland* [1893] 1 Q.B. 142, where his lordship said that if a person on a highway does not transgress a " reasonable and usual mode of using it, I do not think that he will be a trespasser." It is not always easy to decide what is a " reasonable and usual mode of using " the highway. A person leaning up against a fence by the side of a highway is not necessarily a trespasser (*per* A. L. Smith, L.J., in *Harrold* v. *Watney* [1898] 2 Q.B. 320), and an artist making a sketch in the highway may (*per* Kay, L.J., in *Harrison's* case, *supra*) or may not (*per* A. L. Smith, L.J., in *Hickman* v. *Maisey* [1900] 1 Q.B. 752) be committing an act of trespass. In every instance the answer depends upon whether it is found that the person concerned was making reasonable and usual use of the highway and, in view of the decision of the Court of Appeal in *Hickman* v. *Maisey*, *supra*, it is clear that there may even be circumstances in which a person is not entitled to walk backwards and forwards along it.

Defaced Coins and Notes

IT is, of course, illegal to forge or counterfeit any bank-note or coin, but it is also an offence to deface them. Two instances of the defacing of currency have recently come to our notice. A shipyard engineer and part-time market stallholder, described by the defence as an amateur magician, was said to have sold defaced coins from his stall of toys and novelties in the Stockton market and the Stockton-on-Tees magistrates were shown a double-headed penny and a sixpence which was also a threepenny piece. The man was convicted, we imagine, under s. 4 (3) of the Coinage Offences Act, 1936, which makes it an offence to tender, utter or put off any coin which has been defaced by stamping thereon any names or words, whether or not the coin is thereby diminished or lightened. We hear that Bank of England notes are appearing in Scotland with the slogan " Scottish Self-Government is Overdue " printed in bold red letters in a circle round and across Britannia's head. If the offender is traced it seems to us that this unusual propaganda could be dealt with under s. 12 of the Currency and Bank Notes Act, 1928, which provides that if any person prints, or stamps, or by any like means impresses, on any bank-note, any words, letters or figures, he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding £1.

Misprision of Felony

IN *R.* v. *Crimmins* [1959] V.R. 270 the Supreme Court of Victoria held that the offence of misprision of felony is not obsolete and that the citizen's duty to disclose to the appropriate authorities any treason or felony of which he has knowledge remains the same and is still as binding upon him as it was in the early days of the common law. In that case the accused disclosed the fact that he had been feloniously wounded but concealed his knowledge as to the identity of the person by whom he had been so wounded and as to the place where the wounding had taken place. It was decided that there was a sufficient concealment of the felony to constitute the offence of misprision of felony. In *Williams* v. *Bayley* (1866), L.R.1 H.L. 200, Lord Westbury suggested that it was necessary to show that the person charged with this offence had converted his knowledge " into a source of emolument to himself " and in *R.* v. *Åberg* [1948] 2 K.B. 173 the Court of Criminal Appeal said that, in view of this speech, in any future charge of misprision of felony it would be necessary to consider whether it is essential to prove a concealment for the benefit of the person charged. The Supreme Court of Victoria considered the point and came to the conclusion that it mattered not what induced the accused not to perform his duty to disclose the felony which he knew had been committed. Their lordships realised that this finding was contrary to the *dictum* of Lord Westbury in *Williams* v. *Bayley*, *supra*, but they thought that on that occasion his lordship had confused misprision of felony with the offence of compounding a felony.

THE WINDING UP OF COMPANIES—I

In this series of six articles an attempt will be made to deal with the more important and difficult aspects of the law governing the winding up of companies. It is hoped that this will prove useful to the practitioner who already has a working knowledge of the subject. Points of procedure will only be dealt with if they are specially significant; adequate information about procedure is obtainable elsewhere, and it would be superfluous to repeat it here.

This first article will be concerned with winding-up orders made by the court. Voluntary liquidations will be dealt with in the second article.

Petitioners for winding-up orders

The Companies Act, 1948, enables a petition for a winding-up order to be presented by the company concerned, or by any of its creditors or contributories (s. 224 (1)), or by the Board of Trade in consequence of an adverse report by an inspector appointed by it to investigate the company's affairs (s. 169 (3)). Practically all petitions are presented by creditors or contributories, and so our comments will be confined to them.

Creditors as petitioners

A creditor, for the present purpose, is a person who could enforce his claim against the company by an action of debt. A person is not a creditor, therefore, if he could merely sue for unliquidated damages for breach of contract or tort, or for the restitution of money which the company unlawfully detains from him (*Re Pen-y-Van Colliery Co.* (1877), 6 Ch. D. 477). But an assignee of a debt owed by the company may petition, even though the assignment is merely equitable, because he could sue the company in debt by joining his assignor as a party to his action (*Re Steel Wing Co.* [1921] 1 Ch. 349). Likewise, it would seem that a person who could sue the company for liquidated damages stipulated for in a contract which the company has broken, is a creditor and may petition. In all those cases where a person has a money claim against the company which he cannot enforce by an action of debt, however, he may put himself in a position to petition for a winding-up order by suing the company to judgment first, and then basing his petition on the judgment debt.

If the petition is based on a debt, but for some reason the petitioner could not sue to recover it, the petition is obviously bound to fail. Thus a petition will be dismissed if it is based on a statute-barred debt (*Re Art Reproduction Co., Ltd.* [1952] Ch. 89), or a claim for tax by a foreign or Commonwealth government under its own law (*Government of India* v. *Taylor* [1955] A.C. 491). For the same reason these claims are not provable in a winding up procured by some other petitioner. A particularly hard case under this present rule is that of the debenture stockholder. When a company issues debenture stock it covenants with the trustees for the stockholders to pay the debenture debt, but it does not covenant with the stockholders themselves to pay it. Consequently, a stockholder is not a creditor of the company even though he is beneficially entitled to part of the debenture debt, and so he cannot petition for a winding-up order (*Re Dunderland Iron Ore Co., Ltd.* [1909] 1 Ch. 446). If, as is often the case, the debenture trust deed precludes any individual stockholder from taking any other steps to enforce the security created by the debenture trust deed unless a certain fraction of his fellow stockholders concur, the individual stockholder is left completely remediless, and is in a worse position than any unsecured creditor.

The court will not usually make a winding-up order unless the petitioning creditor is owed at least £50. This is not a rule of law, however, and so the court is free to waive it in exceptional cases, for example, when the petitioner is supported at the hearing by other creditors and their debts equal £50 in the aggregate (*Re Leyton and Walthamstow Cycle Co.* (1901), 46 Sol. J. 71), or when the company's only assets cannot be reached by the normal modes of execution available to creditors (*Re World Industrial Bank, Ltd.* [1909] W.N. 148).

The court is reluctant to try the merits of any defence pleaded by the company to the petitioning creditor's claim on the hearing of the winding-up petition. The reason for this is that evidence on the hearing is given by affidavit, and the court therefore lacks the opportunity of judging the veracity of witnesses which a judge who tries an action has. Consequently, if the company pleads a defence to the petitioning creditor's claim which is good in law and is supported by evidence which the court thinks should be listened to, the court will either dismiss the petition or stand it over, and leave the petitioner to sue the company by action and to continue with his winding-up petition only when he has obtained judgment. For this reason it is good tactics for the creditor to obtain judgment against the company first, before presenting his petition, at least in all but the clearest cases. After judgment has been signed against it, the company will be estopped from disputing the creditor's claim, and a winding-up order should be easily obtained. Even after judgment, however, the company is not estopped from pleading that the transaction with the creditor was *ultra vires*, unless this point was expressly decided against it by the judge who tried the action, and so a petitioning creditor who has obtained judgment in default of appearance or defence should be prepared to meet this plea on the hearing of his petition (*Re Jon Beaufort (London), Ltd.* [1953] Ch. 131).

Contributories as petitioners

Contributories, the other main class of petitioners, are present or past members of the company. Despite his title, a contributory need be under no liability to contribute any money to the company's funds in the event of its being wound up. Consequently, a holder of fully paid shares may petition (*Re Anglesea Colliery Co.* (1866), L.R. 1 Ch. App. 555), and, subject to what is said below, so may a past member who transferred his shares more than a year ago and who, therefore, cannot be called on to contribute even if the shares are still only partly paid up (*Re Consolidated Goldfields of New Zealand, Ltd.* [1953] Ch. 689). In practice, of course, winding-up petitions are presented only by present members and past members whose shares are still only partly paid up.

The Companies Act, 1948, s. 224 (1), prevents a contributory from presenting a winding-up petition unless: (*a*) the membership of the company has fallen below seven, or two in the case of a private company; or (*b*) the shares in respect of which he is a contributory were originally allotted to him, or have been registered in his name for at least six out of the eighteen months before his petition is presented, or have devolved on him on the death of a former holder. The purpose of this provision is to prevent a transferee of shares from petitioning until he has held his shares for six months, so as to lessen the inducement to rivals of the company to

purchase shares in it merely in order to enable them to present wrecking petitions. A transferee of shares is only able to petition within the six months if the membership of the company has fallen below the statutory minimum, and he is therefore exposed to personal liability for the company's future debts under s. 31 of the Act. The provision in s. 224 (1) has a larger effect than was originally intended, however. Thus, a purchaser of a share warrant can never present a winding-up petition, because his shares will not be registered in his name on the company's register of members (*Re Wala Wynaad Gold Mining Co.* (1882), 21 Ch. D. 849), and a trustee in bankruptcy of a member cannot petition until he has been registered as holder of the bankrupt's shares for six months (*Re H. L. Bolton Engineering Co., Ltd.* [1956] Ch. 577). But the personal representatives of a deceased member may petition even though they have never been registered as holders of the deceased's shares (*Re Norwich Yarn Co.* (1850), 12 Beav. 366), and so may an allottee of shares who holds a letter of allotment but has not been registered as a member (*Re Patent Steam Engine Co.* (1878), 8 Ch. D. 464).

The court will not accede to a contributory's petition unless he has a material interest in obtaining a winding-up order. If his shares are partly paid, his interest will consist in minimising his liability to contribute the capital unpaid on his shares by the winding-up order preventing the company from incurring further debts. If his shares are fully paid, however, he will only have a sufficient interest if there is a reasonable prospect of the company proving to be solvent, and of capital being returned to its members. This is so despite the provision of s. 225 (1) of the Act that a winding-up order may not be refused merely because the company has no assets, or because its assets are mortgaged for more than they are worth (*Re Kaslo-Slocan Mining and Financial Corporation, Ltd.* [1910] W.N. 13).

Grounds for winding-up orders

Of the six grounds on which the court may make a winding-up order (set out in the Companies Act, 1948, s. 222), only two are relied on in practice, namely, that the company is unable to pay its debts, and that it is just and equitable that the company should be wound up.

Insolvency

It is usually no easy task for a petitioning creditor to prove positively that the company is insolvent, and so the court assists him by presuming insolvency if the company has declined to pay his debt without excuse, or if the company has told the creditor that it has no assets on which he can levy execution. Furthermore, in two cases the Companies Act, 1948, s. 223, provides that the company shall be deemed to be unable to pay its debts, and it would seem that in these cases the company cannot avoid a winding-up order by proving that it is in fact solvent, its only means of escape being to pay the petitioner's debt. These two cases are :—

(*a*) Where the petitioning creditor is owed more than £50 immediately payable, and has served a written demand for payment on the company, and the company has for three weeks thereafter neglected to pay the debt or compound for it to the creditor's reasonable satisfaction. A company does not neglect to satisfy the creditor's claim if it has a reasonable defence to plead, and so it should again be emphasised that if the creditor has reason to expect that the company will dispute his claim, he would be wise to sue it to judgment first, and then serve a written demand for payment of his judgment debt, so as to prevent the company raising any defences on the merits of his claim when he presents his winding-up petition.

(*b*) Where the petitioning creditor is a judgment creditor, and execution issued by him against the company's assets has been returned unsatisfied in whole or in part. If a judgment creditor is in a hurry to present his winding-up petition, he might find it well worth the expense of issuing a *fi. fa.*, even though he knows that the company has no seizable chattels; he might even draft his petition while awaiting the inevitable return by the sheriff.

Just and equitable to wind the company up

The other ground commonly relied on in winding-up petitions, that it is just and equitable that the company should be wound up, is a ground quite separate from the five other more specific grounds set out in s. 222, and, although some of the occasions when a winding-up order will be made under this head are analogous to those under the other heads, there is no imperative need that the situation should be analogous, and the court is free to develop its concept of when it is just and equitable to wind up a company as it chooses. Up to the present, successful petitions brought on this latter ground have fallen into three categories, namely, where the company's substratum has disappeared, where there is deadlock in the management of the company, and where the persons in control of the company have treated the other members oppressively.

The substratum of the company is its main objects, that is the purposes set out in the objects clause of its memorandum of association which it was really formed to achieve, as distinct from the plethora of ancillary powers with which draftsmen habitually decorate the objects clause. If it is physically or legally impossible for the company to pursue its main objects, or if the company has in fact abandoned them all, its substratum has disappeared, and it will be wound up. But it should be remembered that a company may have more than one main object—for example, it may have been formed to acquire and run a particular undertaking, and also to acquire and run other businesses of the same character. In that case a winding-up order will not be made unless it has abandoned all its main objects, so that in the above example if the company has sold its original undertaking but proposes to acquire a new one of the same kind, the court will not wind it up (*Re Kitson & Co., Ltd.* [1946] 1 All E.R. 435).

The court will only make a winding-up order because of deadlock if the dissension between members and between directors is so acute that resolutions necessary for carrying on the company's business cannot be passed either at general meetings or at board meetings. On the other hand, it is not necessary that the deadlock should be complete, and so the company will be wound up even if it is possible for two or more members or directors who are not opposed to one another to resolve the deadlock by acting in concert. Thus, in *Re American Pioneer Leather Co.* [1918] 1 Ch. 556, a winding-up order was made because one of the company's two directors refused to attend board meetings, and the other director by himself could not constitute a quorum to transact business. The company's shares were held in equal proportions by the two directors and a third person, so that any two shareholders could have combined to pass resolutions at general meetings, but the impossibility of holding board meetings made it impossible to call general meetings without the assistance of the court, and so from a practical point of view there was deadlock.

Acts of oppression by those in control of the company over an extended period will induce the court to wind up the company. Thus, in *Loch* v. *John Blackwood, Ltd.* [1924] A.C. 783, a company was wound up when the directors (who were the majority shareholders) had for several years refused to call annual general meetings, to submit accounts to the shareholders, or to have the company's accounts audited, as part of a plan to induce the minority shareholders to sell their shares at approximately one-quarter of their real value. In situations of this sort, the oppressed shareholder now has an alternative remedy available under s. 210 of the Companies Act, 1948. Under this section the court can, instead of winding the company up, make any order it thinks fit for removing the oppression, and it is obviously of advantage to the petitioning shareholder to seek this remedy instead of a winding-up order when the company is prospering. Indeed, in such a case, the court might well be justified in refusing a winding-up order, even if the petitioner asked for it, on the ground that he was acting unreasonably in not proceeding under s. 210 (see s. 225 (2)), and in any case, on the hearing of a winding-up petition the court could, in exercise of its jurisdiction to make such order as it thinks just (see s. 225 (1)), make an order under s. 210 instead.

Practice and procedure

Only two points of practice call for comment here.

(1) By the Companies (Winding Up) Rules, 1949, r. 30, the formal affidavit made by the petitioner in support of his petition is sufficient *prima facie* proof of the facts alleged in the petition, and so unless the company files affidavits in opposition denying those allegations, to which the petitioner will file affidavits in reply, there will be no affidavits before the court setting out in detail the evidence on which the petitioner relies. It has been held in *Re S. A. Hawken, Ltd.* [1950] 2 All E.R. 408, however, that in this situation the court will not automatically proceed to make a winding-up order without further inquiry, and, in particular, where the petition alleges fraud or mismanagement, the petitioner should file an affidavit setting out in detail the evidence on which he relies so as to assist the court in its inquiry.

(2) The court usually awards costs in winding-up proceedings in the same way as in other actions, namely, according to the outcome of the petition. If the petitioner is successful, he will be awarded his costs against the company; if he is unsuccessful the company will be awarded its costs against him. Furthermore, the court will usually order the losing party to pay two separate sets of costs to the contributories and to the creditors who appeared on the hearing in support of the successful side. But if the court, in exercise of its power under s. 346 (1) of the Act, dismisses the petition without inquiring into its merits, simply because the majority of the company's creditors or contributories do not want the company to be wound up, the court will not award costs against the unsuccessful petitioner, but will merely leave him to bear his own costs (*Re R. W. Sharman, Ltd.* [1957] 1 W.L.R. 774).

(To be continued)

R. R. P.

FILM STARS INCORPORATED

EVER since Mr. Salomon immortalised his name the one-man company has been a familiar idea, but it has gained in interest during the last few years from the activities of cricketers, film stars and other professionals who have sought incorporation. What is the advantage of an abstract Brigitte Bardot, Ltd., over the flesh and blood of its promoter?

The usual pattern is to form a company with the object of exploiting the services of the principal actor, who then enters into a service agreement with the company. He can also be the principal shareholder, but it is preferable that he should not be a director.

Expenses

It is often assumed that the chief object of incorporation is to obtain increased expense allowances for tax, but this is the most doubtful of the advantages. If the star receives emoluments of £2,000 per annum or more, even though not a director, s. 160 of the Income Tax Act, 1952, applies; any expenses paid by the company, or benefits in kind provided for him, are taxed on him under Sched. E, unless he can justify them as expenses wholly, exclusively, and necessarily incurred in the performance of his duties within the very narrow wording of the Sched. E expenses rule.

If it could be arranged that the emoluments were less than £2,000, expenses might be paid by the company which would not be allowed to an individual, but this would hardly be a practicable proposition for anyone but a starlet, especially as any expenses and benefits in question are included in emoluments when it comes to deciding whether the £2,000 mark has been reached.

Reserves

An actor is allowed no depreciation of his wasting assets, and all his net earnings as an individual are liable to income tax and surtax, apart from the ordinary personal reliefs. If his profession is carried on by a company, he still obtains the same reliefs against the salary paid to him, but in addition the company has some opportunity of accumulating profits free of surtax. This policy cannot be pushed too far, because a surtax direction may be made on the company, under s. 245 of the 1952 Act, if it fails to distribute a reasonable part of its income. With care, however, a certain reserve can be built up which will be extremely valuable in a profession where fluctuation of income can produce surtax inequities.

Spreading the income

A claim by a professional man to be employing his wife is jealously regarded by the Revenue, but it is much easier to substantiate that a company is employing the wife of its principal servant. Even if her duties are nominal she can act as director and receive a moderate fee which could hardly be disallowed. This will enable advantage to be taken of wife's earned income relief, under which she is allowed £140 per annum free of income tax and another £360 at reduced rates, in addition to the ordinary earned income allowance.

Death benefits

One disadvantage of incorporation might be felt on the death of the star. The decisions in *Stainer's Executors* v. *Purchase* [1952] A.C. 280, and *Carson (I.T.)* v. *Cheyney's Executor* [1958] 3 W.L.R. 740; 102 SOL. J. 955, show that earnings of an actor or author received after his death are not assessable to tax, because they are covered by the assessments made during his lifetime. It would be difficult for a company to take the benefit of this principle, because it depends on the assessment of profits on a *cash* basis, and the Revenue would usually insist on an *earnings* basis in the case of a company.

J. P. L.

Common Law Commentary

FATAL ACCIDENTS ACT, 1959

THE above Act, which came into force on 29th July last, extends the operation of the Fatal Accidents Act, 1846, so as to include a wider group of relatives for whose benefit an action may be brought and it repeals the Fatal Accidents (Damages) Act of 1908, replacing its provisions by more extended provisions relating to excepted benefits arising from the death.

Old law

Under s. 5 of the 1846 Act (the "Principal Act"), the relatives in respect of whom an action could be brought, if the other conditions were fulfilled, were: husband, wife, children, grandchildren, stepchildren, father, mother, step-parents and grandparents. This list was extended by the Law Reform (Miscellaneous Provisions) Act, 1934, by a provision declaring that illegitimate and adopted children were to be deemed to be "children" and their parents "parents" for the purposes of the Principal Act (s. 2 (1)), and there is a decision (*The George and Richard* (1871), L.R. 3 A. & E. 466) that posthumous children are "children" within the Principal Act.

New list of dependants

The provisions of the 1934 Act are repealed and replaced by clearer provisions which cover those of the repealed sections and more. In subs. (1) of s. 1 of the new Act the list of relatives is extended to include "any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased person." By subs. (2) of s. 1 it is provided that in deducing any relationship for the purposes of the Principal Act and of the amending Act—

"(*a*) an adopted person shall be treated as the child of the person or persons by whom he was adopted, and not as the child of any other person; and, subject thereto,

(*b*) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half-blood as a relationship of the whole blood, and the stepchild of any person as his child; and

(*c*) an illegitimate person shall be treated as the legitimate child of his mother and reputed father."

The words "and not the child of any other person" in para. (*a*) above are new and make clear that the natural parents are excluded in the case of an adopted person, and the words "subject thereto" make clear that a different rule applies to an adopted illegitimate child from the rule applicable to an illegitimate child who has not been adopted.

Half-blood dependants

Paragraph (*b*) is necessary to make clear that the extension of the provisions of the Act to aunts and uncles includes both sides of the family: those by marriage as well as those by blood, but it also has the effect of covering stepbrothers and stepsisters and the children of half-blood relatives within the list. Stepchildren and step-parents are specifically mentioned in the Principal Act, but these words are repealed (being now unnecessary) and for other Acts which are also affected by the new Act (mentioned below) this provision covers stepchildren and step-parents.

Other Acts affected

Two other Acts are amended so as to bring their provisions into line with the amendments to the Principal Act. The first is the Law Reform (Married Women and Tortfeasors) Act, 1935, where, by s. 6 (1) (*b*), the list of relatives whose actions had to be taken into account if brought separately against a tortfeasor was a more limited list than that in the Principal Act: now the list is to be the same as in the Fatal Accidents Acts, 1846 to 1959. This is done by substituting the expression "dependants" for the old list and then substituting a different interpretation paragraph for s. 3 (*a*).

The other Act which is brought into line with the new class of relationships is the Carriage by Air Act, 1932. Section 1 (5) of the new Act sets out the new provisions which are to be substituted for the Second Schedule and the effect is to produce uniformity where an action under the Principal Act is possible in this type of case, but it extends the provisions to the whole of the United Kingdom.

Benefits resulting from the death

Under the Principal Act, it was provided that in assessing the loss resulting to the plaintiff from the death of the deceased, benefits which accrued as a result of the death should be taken into account in reduction of damages. Lord Porter laid down in *Davies* v. *Powell Duffryn Associated Collieries, Ltd.* [1942] A.C. 601, at p. 623, that damages were awarded to compensate the recipient on a balance of gains and losses for the injuries sustained by the death. But an exception was created by the Fatal Accidents (Damages) Act, 1908, by a provision that sums paid or payable on the death of the deceased under any contract of assurance should not be taken into account.

The new exceptions

Under the new Act a more extended list of exceptions is given and the 1908 Act is repealed. The new list is "any insurance money, benefit, pension or gratuity which has been or will or may be paid as a result of the death" (s. 2 (1)) and by sub-para. (2) the following definitions were given:—

"'benefit' means benefit under the National Insurance Acts, 1946 (as amended by any subsequent enactment, whether passed before or after the commencement of this Act), or any corresponding enactment of the Parliament of Northern Ireland and any payment by a friendly society or trade union for the relief or maintenance of a member's dependants;

'insurance money' includes a return of premiums; and

'pension' includes a return of contributions and any payment of a lump sum in respect of a person's employment."

A consequential amendment is the repealing of s. 2 (5) of the Law Reform (Personal Injuries) Act, 1948, which covered the exception relating to any right to benefit resulting from the death.

Effective operation of new Act

The Act applies only to actions brought in respect of deaths occurring after the commencement of the Act.

The existing limitations on the bringing of an action remain, namely, that the person on whose behalf the action is brought must have been dependent on the deceased and have suffered

in consequence of his death; the deceased must himself have been in a position to bring an action had he lived, i.e., he must not have accepted compensation between the date of the accident and his death so as to extinguish his right of action; or be wholly to blame; or voluntarily have accepted the risk; or be statute-barred.

So far as the statutory limitations on the time within which an action may be brought are concerned, the period is now governed by the Law Reform (Limitation of Actions) Act, 1954. The period is now three years instead of twelve months, as it was under the Principal Act (s. 3).

L. W. M.

DEBTORS AND THE COUNTY COURT

THE ROAD TO BRIXTON

One of the main features of the county court scene, particularly in some of the courts that only sit periodically, is the row of ladies and gentlemen at the back whose faces rapidly become only too familiar to the judge. They are the respondents to judgment summonses; the stones out of which judgment creditors hope to be able to extract at least a thin trickle of blood. At each sitting, there they will be, still on the Assistance or on the Labour; still under the doctor; still tied down by an ever-increasing family; or simply still hoping to be able soon to earn enough to afford to live as they have done for years. Though some of them are "can't-pays," most of the more familiar faces are those of "won't-pays" except under pressure, and they are the stones with which the road to Brixton is potentially paved.

In practice, of the three basic ways by which you can reach Brixton via the county court, the only really easy one is by throwing an inkpot at the judge. This kind of gross contempt would doubtless have the desired effect immediately, and studied disobedience of an injunction might also do so in due course, but if gaol is your goal, you are fairly unlikely to achieve it through a judgment summons.

This is, of course, due to the somewhat paradoxical nature of Ord. 25, Pt. III, procedure. Though it may appear to the judgment debtor as he reads his blue summons (if he ever does) that the slippery road to Brixton lies straight before him, it is in fact sloped steeply against him. The true object of the proceedings is to extract money from him, with the threat of prison as an inducement to him to pay. Before a committal order can be made under s. 5 of the Debtors Act, 1869, the judge must be satisfied that the debtor can pay, or has had the ability to pay and has neglected to do so. In either case, usually the best chance of getting anything is by means of a small instalment order which is clearly within the debtor's means. However, if he is sent to prison he ceases to earn, and there are then no means out of which he can pay. It follows therefore that it is to no one's benefit to take matters to their ultimate end, and there is accordingly scope for the exercise of brinkmanship on either side.

Pay or purge

A few cases occur where the debtor has the means to pay and simply refuses pig-headedly to do so. A visit to Brixton will then very often produce payment in full, which entitles him to immediate release. However, it is not always realised that the position is different if the debtor goes to prison by the third route available, that provided by s. 27 of the Administration of Justice Act, 1956, and Form 179A. This is imprisonment for contempt of court, the wilful refusal to obey the order of the court to attend and be examined as to your means, and you cannot escape by paying. You must purge. In this, however, you will be energetically assisted by the Official Solicitor instructed by the Home Office. This is not necessarily because the Home Office approves of people who are in contempt, but is rather a reflection on the high cost of entertaining Her Majesty's guests, and the shortage of accommodation for them.

The rules of the judgment summons game, though not very difficult, give some scope for tactical manœuvring on either side. The professional debtor, for instance, knows that a judgment summons served on him by post under Ord. 25, r. 39 (2), has no sting in its tail. He also knows all about the importance of payment of conduct money. He is less likely to know that going to prison does not relieve him of the liability to pay, and that though he can only be imprisoned once for any one debt, he can be imprisoned for non-payment of each instalment of it as it becomes due.

Solicitors, on the other hand, sometimes seem to be uncertain of the provisions of Ord. 25, r. 66, to the detriment of their own pockets. In spite of para. (2) of that rule, judges have also been known to allow a witness fee under Ord. 47, r. 29, in respect of an enquiry agent testifying as to an absent debtor's means.

Few, if any, judges will make a committal order against a debtor under s. 5 of the Debtors Act unless an instalment order is in existence. This is usually made at the first effective hearing of the judgment summons, but it might prove worth while for a judgment creditor to try to short-circuit this step by himself applying under Ord. 24, r. 17, for a small instalment order. Nothing could be lost, and something might be gained.

Married women

The problem of married women and judgment summonses is a particularly difficult one. Judges have been known to refuse Form 179 orders against them simply on the grounds that they cannot possibly be expected to leave their families and come to court. All judges are even more than usually reluctant to commit them to prison. In many courts, when a warrant of committal is actually issued, it is the practice for it to be executed on a morning when the court is sitting so that the debtor can have a last chance to come before the judge and make some satisfactory explanation of her default, or an offer of payment. The theory is that when arrested, even the most hardened debtor will make an effort to pay something rather than go to prison. However, occasionally even this does not work. One much married lady was ultimately brought before the judge in this way while in transit to Holloway. She gave no explanation of her failure to pay which he could use as an excuse for suspending the warrant, and in a final effort to spur her into doing something to save herself, he wound up his lecture to her by reminding her of how her husband and seven children, who were so dependent on her, would suffer in her absence. But what, he asked, could he do?

The debtor showed signs of animation for the first time. "For Gawd's sake, Sir," she implored him, "put me inside, can't yer? I need the rest."

J. K. H.

COLLUSION—I

How easy it all seems! A quick rehearsal of the petitioner's evidence outside the court, soft words of reassurance from counsel to a twittering client, ten minutes or thereabouts of foreseeable question and answer, then the judge is "satisfied on the evidence," a decree *nisi* is pronounced and another sad matrimonial history is closed. To the outsider the path of the divorce practitioner must indeed appear smooth and sunny, but to those who tread it regularly it is known to be beset with dangers: this leads to a state of near-neurosis in many, who are haunted by the dread of the ultimate disgrace—to lose an undefended divorce. Perhaps the most threatening of the shadowy figures lying in wait for the unwary is that of old Giant Collusion, but like other terrors he looms the larger when unknown or misunderstood, and it does seem that some lawyers are driven into needless anxiety by a confusion of thought on this matter. Because collusion is an absolute bar to divorce it is right to regard it with a healthy respect, but there is a good deal of misapprehension which leads solicitors to fear the most innocent encounters with "the other side" and to see the Queen's Proctor (or his bulldogs) lurking behind every pillar in the Crypt. As this throws sand in the works, slows down the machine, throws away costs and, most important of all, raises the mean blood-pressure of the profession, it is to be avoided if at all possible.

Woodard v. *Woodard and Curd*

Although it did not in the end turn on collusion, it is the recent case of *Woodard* v. *Woodard and Curd* [1959] 1 W.L.R. 493; p. 353, *ante*, which prompts the thought that it might be useful to look at the limits of the operation of this particular bar. The facts in that case were that the husband petitioner established adultery against his wife on the strength of her giving birth to a child of which he could not be the father, supported by her oral and written confessions that she had committed adultery with a man named Curd. An inquiry agent was sent to interview Curd and did in fact see someone who made admissions of adultery with the respondent wife, but the evidence of the identity of this man with Curd was unsatisfactory; this gap of identification could easily have been bridged, but it never was, with the result that the evidence put before the court was not technically sufficient to establish adultery against Curd, although it must have been abundantly clear that proof would be available if it was sought. At the initial hearing counsel for the petitioner invited the court to dismiss Curd from the suit and counsel for Curd said that he was not asking for costs against the petitioner. A decree *nisi* was granted, but Sachs, J., adjourned the question of costs until he had heard argument by the Queen's Proctor.

In order to grant a decree at all, the judge had to be satisfied that there was no collusion; he expressly said at the first hearing that he was satisfied on this point and counsel for the Queen's Proctor at the adjourned hearing confirmed the accuracy of the learned judge's conclusion on this point. At first sight, this is the sort of case which immediately arouses suspicion of collusion: a petitioner refrains from calling readily available evidence which would incriminate a co-respondent and the co-respondent obligingly refrains from asking for costs against the petitioner. Such cases are becoming more and more frequent and it is important to know when they are collusive and when they can be said to be untainted. In these cases there is clearly an "agreement" between the petitioner and the co-respondent: the question is, when does such an agreement amount to collusion?

By dividing the *Woodard* case into two parts—decree *nisi* and costs—Sachs, J., made one more of his valuable contributions to the clarity of divorce law. In effect, though not in terms, he said that collusion could only taint the adducing or suppression of evidence; if the case was conducted in such a way that the court could be satisfied that nothing had been manufactured and nothing withheld as the result of a bargain between the parties, then there was no collusion. The question of costs has to be considered separately. There can, of course, be a collusive bargain relating to costs, but just because there *is* a bargain about costs, it is not necessarily collusive.

Limits of collusion

Where, then, does collusion begin and end? There is no statutory definition, and although it was a bar in the Ecclesiastical Courts, there was never any definite authority apart from *dicta* such as that of Lord Stowell in *Crewe* v. *Crewe* (1800), 3 Hagg. Eccl. 123: "... a common agreement between the parties to effect their object by fraud in a court of justice." *Churchward* v. *Churchward* [1895] P. 7 took the definition beyond the bounds of fraud on the court: any agreement to initiate or to refrain from defending a suit for divorce was held to be collusive, even though no specific fact was "falsely dealt with or withheld." On this decision the modern attitude of the courts is based. As it stands, however, that judgment is too narrow, at any event for modern views; in *Teale* v. *Burt* [1951] P. 438, Denning, L.J., enlarged on it in the following words: "Those arrangements (i.e., for maintenance, the ownership of the matrimonial home, costs, etc.) are not collusive so long as they do not tend to pervert the course of justice. They often have to be made of necessity. They amount to collusion only if one party or the other uses them as a bribe ... (Parties) can compromise in claims for damages in divorce proceedings so long as the agreement does not tend to pervert the course of justice *and it is brought to the notice of, and sanctioned by the court*" (author's italics).

This sentence of Lord Denning holds the short answer to the problem of collusion: if an agreement can bear the examination of the court, it is not collusive; if it cannot stand the light of day, it will be an absolute bar to a decree. Of course, that is not the end of the matter, because one must still be able to recognise which agreement will and which will not pass the test, but it demonstrates the right way to approach the problem. The first question to be asked in any doubtful case is: "What will the court think of the conduct of the parties in the light of any explanations which counsel is in a position to give?" A distinction must be made between conduct which raises the question of collusion but can be explained away, and conduct which can never be acquiesced in by the court because it tended "to pervert the course of justice." Many of the negotiations which take place between the parties, between solicitors, even between counsel, while entirely proper, are of such a nature that they might raise the question of collusion: such negotiations may be undertaken with confidence provided that justice is not imperilled, and lawyers should not shirk their responsibility for applying the law by refusing to come to a courageous decision where collusion rears its ugly head. It is for counsel and solicitor to decide what is, in fact, collusive, and where there is any doubt it is their duty to bring the facts before the court.

Presumption of law against collusion

It must not be forgotten that there is a presumption of law against collusion, as there is against connivance, and that the burden of proving no collusion only shifts on to the petitioner if something arises which raises in the court a suspicion of collusion (see *Emanuel* v. *Emanuel* [1946] P. 115 and *Pollard* (*falsely called Wybourn*) v. *Wybourn* (1828), 1 Hagg. Eccl. 725). But it is the duty of the court (Matrimonial Causes Act, 1950, s. 4) not to grant a decree where such a suspicion is aroused unless satisfied that there was, in fact, no collusion ; naturally it will be more difficult for the court to be so satisfied if the suspicious circumstances are discovered in the course of the case than if a full and frank disclosure is made at the outset. For this reason counsel is well advised to open fully in such a case : the petitioner or other witnesses can then give the appropriate explanations and the judge is able to hear the evidence with the question of collusion in mind. It has often been said that a man should hold nothing back from his lawyer, his doctor or his accountant ; when collusion is in question counsel should certainly hold nothing back from his judge.

Sincerity the test

What conduct will the court hold to be collusive and what sort of explanations will be acceptable ? Examples could run into hundreds of pages, but some attempt must be made to extract the principles on which the courts may be expected to act. Taking the *Woodard* case as a starting point, in spite of the highly suspicious circumstances there, Sachs, J., said he was satisfied that there was no collusion because, after hearing all the evidence and representations of counsel, he believed that all the relevant facts had been put before him and that his judgment therefore was unfettered : although the petitioner and the co-respondent had clearly made an agreement about costs, this did not entail deceiving the court and it was therefore not—in this particular case—a collusive agreement. But this decision must not, I think, be taken to mean that *no* agreement can be collusive provided that the court is not deceived, since this would be flying in the face of the judgment of Sir Francis Jeune, P., in the leading case of *Churchward* v. *Churchward*, *supra* ; in that case nothing was suppressed and the court was not misled, but the President held that the husband petitioner's agreement, disclosed to the court, not to ask for damages against the co-respondent if the wife would not defend, was collusive : he based this decision on the principle that a petitioner " appears before the court in the character of an injured husband asking relief from an intolerable wrong ; but if, at the same time, he is acting in concert with the authors of the wrong and is subjecting his rights to pecuniary stipulations, he raises more than a doubt whether, in the words of Lord Stowell, ' he has received a real injury and *bona fide* seeks relief '." In other words the test is sincerity, and Sachs, J., must be presumed to have believed that the petitioner's agreement not to ask for costs against the co-respondent in *Woodard's* case did not impugn his sincerity.

The distinction between the *Woodard* and the *Churchward* cases is really one of degree. It is one thing for parties to agree through their legal advisers as to the details of the prosecution of the case, perhaps to avoid unnecessary loss of time or of costs, and quite another for a litigant to make a deal with the idea of " buying off " the other side. Each case must be tested by a searching examination of the motives of the parties and the results of their agreement, in the light of the courts' requirement that a petitioner should come for his remedy with a genuine sense of aggrievement. All the bars to a decree of dissolution or nullity can be traced back to this principle inherited from the Ecclesiastical Courts, and the authorities are to be found in cases decided long before the Divorce Court was born. If the historical background is kept in mind, it should not be difficult in most cases to decide whether or not the court will be satisfied ; but there will remain the doubtful cases where the client must be told that the issue will turn on whether or not the judge believes in the sincerity of the petitioner, and where different judges may well take different views of the facts.

(To be concluded) MARGARET PUXON.

THE STREET OFFENCES ACT

AFTER prolonged travail the Street Offences Act has reached the statute book and became operative on 16th August of this year.

The short and simple provision on which the greatest controversy centred in the passage of the Act through Parliament was the first subsection of s. 1, enacting that " It shall be an offence for a common prostitute to loiter or solicit in a street or public place for the purpose of prostitution."

This may be contrasted with the corresponding s. 32 of the Sexual Offences Act, 1956, in the case of male offenders : " It is an offence for a man persistently to solicit or importune in a public place for immoral purposes." By merely " loitering " in the street without saying a word to anyone, the woman may be committing an offence—as, for example, a woman with a regular clientele who habitually uses a particular part of a street merely as a convenient meeting place. The Town Police Clauses Act, 1847, s. 28, which the Act has repealed together with similar sections for London, called for proof that the woman was " loitering and importuning." The burden placed on the prosecution has obviously been considerably lightened.

At one point, it was mooted that the term " common prostitute " should be dropped, but this has not been adopted and the prosecution will have as before to give some evidence that the woman was known to have engaged in these activities before the events leading up to a charge. The Act will not apply to a woman previously unknown to the police as s. 32 of the Sexual Offences Act applies to an unknown man, though the title to being a common prostitute can be quickly acquired, possibly in the course of a single busy evening.

On the other hand, the requirement to prove " annoyance " which was demanded both by the Metropolitan Police Act, 1839, s. 54 (11), and the Town Police Clauses Act has disappeared. The requirement never was much more than a formality, and there must be a host of tolerant, good-humoured males who would have been astonished had they known that in passing through a street frequented by these women they had been described next day to a bench of magistrates as " looking very annoyed." They were, of course, never called to say whether their annoyance was because one of the ladies had caught their eye with a naughty twinkle or, as was more

likely, it was occasioned by the thousand and one other vexations to which we are subject.

The police will no doubt greet its disappearance with relief. At no time to them was such evidence much more than a legal fiction, but it is possible that it stood in the path of the advancement of a few conscientious officers. Asked by a promotion board why she had never arrested a common prostitute, a bright young policewoman replied tartly: "Because I've never yet seen a man who looked annoyed."

The penalties for the offence have now been considerably increased: £10 for a first offence, £25 after a previous conviction and "for an offence committed after more than one previous conviction, to a fine not exceeding £25 or imprisonment for a period not exceeding three months or both" (s. 1 (2)).

It will be interesting to see how many sentences of imprisonment are imposed for persistently offending against the Act. Three months may seem to some a heavy punishment for a whispered "good evening" to a passer-by in a deserted street, but the new powers should be effective to discourage women whose unpleasant practice it is to take their men into other people's gardens or basement areas or into the shrubberies of public parks instead of providing their own accommodation. If the new Act stamps out this comparatively recent development, it will have achieved something worth while.

Section 2 of the Act is an innovation and, at first sight, appears to have been dropped into the Act haphazardly, as it is not related to any other section. For the first time it gives statutory authority to the police to caution an offender instead of making a charge. This, of course, has been an unauthorised practice of the police forces ever since their institution, and it has been well said that a good policeman is his own magistrate. His mere presence on the streets is an assurance of their orderliness. The story is told of two barristers, both of whom have since been elevated to the bench, that during the last war they became special constables and on one occasion they sought to induce a costermonger to move on. All their quite considerable powers of advocacy, however, proved unavailing, and in their dilemma they confided their difficulty to a regular sergeant. The sergeant went up to the coster and said, "You—git." Whereupon, without a word, the potential offender "gitted."

The power to caution under the Act is not limited either to convicted prostitutes nor to those who have not yet been convicted. Any woman in the discretion of a constable can be so cautioned. In most cases, of course, the caution will be used for newcomers to the profession, but again it may be found practical and expedient in some districts to caution women if they take up positions in main thoroughfares but to allow them sanctuary in less prominent byways.

The Act calls for a record of these "cautions." Such a record will require careful keeping, though apparently it is left to the police to decide whether they will use the power to caution at all. A woman who has been cautioned "may not later than fourteen clear days afterwards apply to a magistrates' court for an order directing that there is to be no entry made in respect of that caution in any record maintained by the police of those so cautioned and that any such entry already made is to be expunged."

The question also arises: "What is a caution?" Presumably it would be invested with something of the solemnity of judicial procedure. The regular sergeant to whom we referred above might very well, upon finding one of his ladies straying into Regent Street from her customary lair in one of the unfrequented streets behind, mutter his well-understood "Git," but this we may imagine would not call for an entry in the cautions book.

The fact that a caution was properly and formally administered would, presumably, be evidence if necessary that the woman had been acting at the time like a common prostitute. It is also to be noted that a caution is not a necessary preliminary to a charge under s. 1.

The Act also considerably increases the penalties which may be imposed in respect of other offences closely allied to prostitution. The penalties for obstructing the police from entering refreshment houses, allowing unlawful gaming therein, and allowing prostitutes, thieves or disorderly or drunken persons to be therein contrary to the Refreshment Houses Act, 1860, and s. 26 of the Licensing Act, 1949, are now to be £20 for a first offence instead of £5, and after a conviction £50 instead of £20.

By s. 4, "the maximum term of imprisonment to which a person is liable if convicted on indictment of an offence under s. 30 of the Sexual Offences Act, 1956 (man living on earnings of prostitution), or under s. 31 of that Act (woman exercising control over prostitute) shall, for offences committed after the commencement of this Act, be seven years."

F.T.G.

THE SOLICITORS ACT, 1957

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that there be imposed upon GRAEME IFOR KEMP, formerly of No. 80 Queen Street, Cardiff, and now of No. 5 St. John Square, Cardiff, a penalty of one hundred and fifty pounds (£150) to be forfeit to Her Majesty, and that he do pay to the complainant his costs of and incidental to the application and inquiry.

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that there be imposed upon KENNETH WEBER RELTON and IVOR WALKER, both of No. 47 Church Street, West Hartlepool, jointly and severally a penalty of five hundred pounds (£500) to be forfeit to Her Majesty, and that they jointly and severally do pay to the complainant his costs of and incidental to the application and inquiry.

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that the name of ARTHUR LESLIE SMITH, of No. 6 Fitzroy Square, London, W.1, be struck off the Roll of Solicitors of the Supreme Court, and that he do pay to the applicant his costs of and incidental to the application and inquiry.

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that the name of ALBERT EVELYN HASLEWOOD, of No. 24 Richmond Terrace, Blackburn, and No. 45 Blackburn Road, Ribchester, Nr. Preston, be struck off the Roll of Solicitors of the Supreme Court, and that he do pay to the applicant his costs of and incidental to the application and inquiry.

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that the name of SYDNEY CHARLES FIELD, formerly of No. 8 New Court, Lincoln's Inn, London, W.C.2, and No. 7 Rotherwick Road, London, N.W.11, be struck off the Roll of Solicitors of the Supreme Court, and that he do pay to the applicant his costs of and incidental to the application and inquiry.

On 21st May, 1959, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that ASHLEY SWINBURNE BAXTER, of No. 134 High Street, Brierley Hill, Staffordshire, be suspended from practice as a solicitor for a period of one (1) year from 1st June, 1959, and that he do pay to the applicant his costs of and incidental to the application and inquiry.

Practical Conveyancing

SIGNATURE OF DEEDS

A READER has recently asked our opinion as to the validity of a deed which was signed by a person who had more than one Christian name with one only of those names and his surname. We have no doubt that the signature is adequate as part of the due execution of the deed but the problem brings to notice a few points which may be of interest to other solicitors. It has long been apparent that whereas the greatest care is taken by solicitors to secure that the execution of a deed is properly carried out others (particularly stockbrokers dealing with transfers of various kinds) act on the assumption that the execution is a formality. A deed of transfer is often presented for registration without any vestige of a seal and signed with a name which, if it can be deciphered, is found to state some or all of the initials but not the full names.

Statutory requirements

We are apt to forget that prior to 1926 a deed was validly executed although not signed. No doubt this rule was inevitable in the days when few people could write and sealing was a better manner of authentication. Although the practice of signing had become universal by the twentieth century, the rule was not changed until the Law of Property Act, 1925, s. 73, enacted that, as regards deeds executed after 1925, "where an individual executes a deed, he shall either sign or place his mark upon the same and sealing alone shall not be deemed sufficient."

The first question is whether a signature of some only of the Christian names, or of initials, is a sufficient act of signing. Clearly it is. There is no reported decision on the interpretation of the word "sign" in this section but analogous cases can be quoted which relate to wills. The Wills Act, 1837, s. 9, requires that a will shall be "signed." There is authority of long standing (*In the Goods of Savory* (1851), 15 Jur. 1042) to the effect that a signature by initials alone is quite valid. More recently it has been decided in *In the Goods of Chalcraft* [1948] P. 222 that a signature of part only of the name is sufficient if it is intended to be the effective signature. In that instance the testator was unable through weakness to continue the writing. The reason why the writing did not continue is a factor in deciding whether the intention of making the signature was fully carried out. Maule, J., in a different context, said, "signature does not necessarily mean writing a person's Christian and surname, but any mark which identifies it as the act of the party" (*Morton* v. *Copeland* (1855), 16 C.B. 517, at p. 535).

The Wills Act, 1837, s. 9, does not mention the alternative of making a mark. Nevertheless it has been decided that the making of a mark is a sufficient signature even if the testator is capable of signing his name. Notwithstanding decisions to this effect the draftsman of the 1925 legislation took care to state that in deeds the alternative is available and there is no suggestion that this should be so only in the case of disability of the party. Consequently, it can be argued that writing of part of a name would at least be a mark validating a deed unless the writing ceased in such a way as to show that the intention was not fully carried out.

Inquiry as to signature

In the case of investigation of title it is usual to assume that signatures on deeds are genuine. To provide evidence that the persons purporting to sign actually did so and also sealed the document would normally be unduly difficult and expensive. On purchases and mortgages there is a long-standing record of the practice of the profession (Law Society's Digest, vol. 1, Opinion No. 125).

The exact extent of the rights of a purchaser who wishes to be meticulously careful is not certain however. If a deed is more than twenty years old and is in proper custody there is a presumption of due execution (*Re Airey* [1897] 1 Ch. 164; Evidence Act, 1938, s. 4). Consequently, as is suggested in Williams on Vendor and Purchaser, 4th ed., vol. 1, p. 160, it seems that a purchaser cannot call for proof of due execution unless he has good ground for suspecting the authenticity of the document. Having regard to the practice of conveyancers it may well be that the same rule applies to more recent deeds. In any event a purchaser is not likely to call for evidence of due execution without good cause because the cost of producing it is thrown on to him by the Law of Property Act, 1925, s. 45 (4).

Whatever may be the precise nature of the rights of a subsequent purchaser it seems likely that they depend to some extent on the question whether the deed appears to be duly executed. For this reason it is wise to ensure that vendors, and other persons who convey or release an estate, shall be asked to sign their full names with reasonable clarity. Although our conclusion is that a mark, or brief writing, is a sufficient part of the process of signing, sealing and delivery, the customary precautions are advisable as they may avoid a good deal of trouble in the future.

Attestation

Similarly, the usual attestation clause, although not essential, should always be inserted and the deed should be witnessed. Section 75 of the Law of Property Act, 1925, is worth remembering although, so far as we know, it is very rarely used. It provides that a purchaser is not entitled to require that the conveyance to him shall be executed in his presence, or in that of his solicitor, as such, but he is entitled, at his own cost, to have the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. It may occasionally be wise to take advantage of this right. Although the purchaser's solicitor may be entitled to an additional fee for attending on the execution by the vendor (or by some other conveying party in respect of whom the rule seems equally applicable) it is not likely that the vendor's solicitor would thereby undertake any appreciable additional work in respect of which he could charge the purchaser.

J. GILCHRIST SMITH.

Mr. SAMUEL WIDDICOMBE, solicitor, of Newbury, retired from the posts of Coroner for Newbury Borough and South Berkshire, after having held offices for ten years. He will be succeeded by Mr. CHARLES HOILE, solicitor, of Newbury.

Landlord and Tenant Notebook

AGRICULTURE: FAIR LANDLORDS

THE amendment of the Agricultural Holdings Act, 1948, s. 25 (1), effected by the Agriculture Act, 1958, s. 3 (2), introduced the concept of a "fair and reasonable landlord." The old subsection provided that the Minister of Agriculture, etc., should not consent to a landlord's notice to quit an agricultural holding unless satisfied of certain things, and if he were so satisfied he still had, as was shown by *R.* v. *Agricultural Land Tribunal for the Wales and Monmouth Area; ex parte Davies* [1953] 1 W.L.R. 722, a discretion to refuse consent; the substituted subsection entitles the landlord to consent on his proving certain allegations, but "provided that, notwithstanding that they are satisfied as aforesaid, the tribunal [to whom applications are now made] shall withhold consent to the operation of the notice to quit if in all the circumstances it appears to them that a *fair* and reasonable landlord would not insist on possession."

We are accustomed to finding rights modified by reference to reasonableness; the "No order or judgment for the recovery of possession . . . unless the court considers it reasonable to make such an order or give such a judgment, and either . . ." of the Rent, etc., Restrictions (Amendment) Act, 1933, s. 3 (1), is well known. But that statute said nothing about fairness, and we may wonder what exactly Parliament has had in mind when enacting the new s. 25 (1).

Fair and reasonable

It may be suggested that the test is a single one, the characteristics described being essentially the same. My own view would be that the two are to be regarded as distinct and that the tenant can bring himself within the scope of the proviso only by showing that it would be an unfair as well as an unreasonable landlord who would insist on possession.

The addition of the "fair and . . ." may have been the result of the distinction drawn in troublesome *obiter dicta* by Viscount Dunedin and Lord Phillimore (the latter particularly) in *Tredegar* v. *Harwood* [1929] A.C. 72. Troublesome because, when we thought that the judgments in *Re Gibbs and Houlder Brothers & Co., Ltd.'s Lease; Houlder Brothers & Co., Ltd.* v. *Gibbs* [1925] Ch. 575 (C.A.), had finally settled the problem of what we ought to take into account when considering the reasonableness of a refusal to consent to assignment, the law lords mentioned—dealing with a case of refusal to approve an insurance office—expressed their disapproval of that decision (which has since been followed, the criticisms being *obiter*). In Sargant, L.J.'s judgment, a refusal of consent, to be reasonable, must relate "to the use or occupation of the premises or to the personality of the tenant"; according to Lord Phillimore: "If it be a question whether a man is acting reasonably, as distinguished from justly, *fairly*, or kindly, you are to take into consideration the motives of convenience and interest which affect him, not those which affect somebody else."

The same reasoning and sentiments may, I suggest, have actuated Parliament when it provided that, notwithstanding that they have been satisfied of one or more of the grounds for consenting to a landlord's notice to quit, the tribunal should refuse consent if in all the circumstances it appears to them that a *fair* and reasonable landlord would not insist on possession. The tribunal is, on this view, to take into consideration the motives which affect someone else, that someone else being, of course, the tenant.

The squire

It is not to be expected that Parliament intended a restoration of conditions obtaining in the old days, good or bad, but I was reminded of the proviso when I recently came across a copy of the late E. F. Benson's memoirs, published in 1930, and aptly intituled "As We Were." Describing the Victorian "squirearchy," he said: ". . . their tenants as a matter of course voted according to the squire's views; the prosperity of their leased farms was *their personal concern* . . ."; and mentioned later the squire's "identification of himself with the interests and concerns of his tenants." This may give some idea of what is meant by a "fair" landlord. Possibly, if he were one who regularly invited his tenants to shoot or shoot at game, and who distributed coal and blankets and red flannel to cottage tenants at Christmas, he would even merit the appellation "kindly" (used in Lord Phillimore's *obiter*); but the proviso to the new s. 25 (1) does not introduce the test of kindliness.

The circumstances

Something between reasonableness and kindliness appears to be indicated, unless the idea was merely to cover both ethical and intellectual considerations. But importance will undoubtedly have to be attached to the "if in all the circumstances" of the proviso, for those circumstances will include the very facts which the landlord established before the proviso came into operation.

Those facts vary: (*a*) concerns desirability in the interests of good husbandry, and (*b*) desirability in the interests of sound management of the [landlord's] estate. Then (*c*) makes desirability for the purposes of agricultural research, etc., or for the purposes of smallholdings and allotments legislation, a ground for consent. The next paragraph, (*d*), introduces quite a different consideration; that greater hardship would be caused by withholding than by giving consent to the operation of the notice. Finally, (*e*) makes intended non-agricultural use, other than use permitted by town and country planning legislation (which is covered by s. 24 (2) (*b*), no consent being necessary), a ground on which the tribunal may *prima facie* give its consent.

Whether "in all the circumstances" a fair and reasonable landlord would not insist upon possession is likely to depend to some extent on which of those grounds he has established or on how strong his case has been. It does seem difficult to visualise a position in which, after proving that greater hardship would be caused by withholding than by giving consent to the operation of the notice, the landlord could be defeated because a fair and reasonable landlord would not insist on possession. At first sight, a tribunal would be unlikely to reach a conclusion that a landlord who had shown that his need was greater than his tenant's was acting unfairly (or unreasonably) in so insisting. Possibly the explanation is that the finding under para. (*d*) does not necessarily imply that the landlord's need is greater. As in the case of the proviso to the Rent, etc., Restrictions (Amendment) Act, 1933, Sched. I, para. (*h*), enabling a controlled tenant to defeat a claim for possession on the "reasonably required" ground

by showing that greater hardship would be caused by granting an order for possession than by refusing to grant it (the burden in that case being on the tenant), the Agricultural Holdings Act, 1948, s. 25 (1) (*d*), may permit of consideration of hardship to third parties: the enactment does not say "greater hardship to the landlord." And the Rent Act case of *Harte* v. *Frampton* [1948] K.B. 73 (C.A.) laid down (disapproving *Cooley* v. *Walsh* [1926] Ir. R. 239) that the court should take into account hardship to all who might be affected.

R. B.

HERE AND THERE

UNDERGROUND MOVEMENT

WHEN the anti-vice Bill was being debated, doubts were everywhere expressed whether the Mother of Parliaments would really succeed in smothering what some people like to call "the oldest profession in the world" and which (be that as it may) is certainly of disreputable antiquity. This intense preoccupation with driving vice off streets was, it was suggested, merely dealing with symptoms; it was not a cure. "You will only succeed," said the critics of the Bill, "in driving vice underground." Even they had no idea how truly they were prophesying. At first all went well. On the stroke of midnight on the appointed day the streets were clear. Decency and sobriety could walk safely from Marble Arch to Lancaster Gate. The nation, or anyhow the journalists who hold themselves out as writing for the nation, were half-incredulously congratulating themselves on the splendid, the "amazing" success of this bold experiment in making people well behaved by law. All the same, the wary must have found something a little ominous about the very meekness of this obedience. And sure enough my favourite, well, almost my favourite, picture paper has just come out with the headline "Street Girls Go Underground," and, for once in a way, a newspaper headline means what it says. An acute reporter has discovered that the ladies of the town have taken to the Underground railway. "I understand," he writes, "that some of the girls found the loophole in the new Act when they consulted lawyers." Loophole? Our ancestors used to congratulate themselves if they could drive a coach and four through an Act of Parliament. In our more progressive days a slip of a girl can, it seems, drive an eight-coach railway train through.

LEGAL OPINION

THE beauty of the discovery (from the point of view of the acute legal minds who made it) is that no girl travelling with a shilling ticket on the Piccadilly or the Central London line can, on the face of it, be accused of "loitering." Or perhaps two tickets, one from each end of her beat, might be safer. On these she could ride backwards and forwards in comfort all day long. The police do not patrol the Underground and if a chance detective saw a girl address a stranger she would have the readiest possible answer, that she was asking the name of the next station. Indeed, that might be as good an *entrée en matière* for her as any other. The advantages of this new Underground Movement are numerous: independence of the weather, saving of shoe leather, comfort in sitting down, proximity to the client and the noise of the train diminishing the audibility of confidential communications. True, a London Transport official has given this sinister hint: "Though the loitering clause of the Street Offences Act does not apply to them on the Underground, we have many byelaws under which they could be prosecuted." But that remains to be tested.

DEMAND CREATES SUPPLY

IT has always been hard enough to enforce morality and decency by law even in times and places when people were substantially agreed on a coherent philosophy of life defining the criteria of right and wrong, but now we are thrown back on the mere shifting sands of current custom, on things no more rooted than fashion. A Chinese girl will wear skirts to the ankles but split up the sides to the thigh, yet she will regard a plunging neckline as the depth of indecency. An English girl will kilt her skirts no higher than the knee, but she will quite happily leave little of her frontage to the imagination. But one cannot build a system of *mores* on mere differences of feeling. The embarrassing fact is that the majority of the English, stranded on the shoal where life looks to them like nothing but a mixture of biological phenomena and economic necessity, have no real sense of right and wrong—only some traditional feelings of decency hanging by a thin thread of habit. On that basis there is no widespread conviction that prostitution or any other sexual aberration is *wrong*. Demand creates supply. As the acute Irishman who cuts my hair remarked: "I could stand on the doorstep of this shop all day long and shout at people, but, if they didn't want a haircut, they wouldn't come in." It's the customers who create the prostitutes, not the other way about. "You *do* like that which, taken at your word, you find abundantly detestable," and there's the problem. Money talks, and the incomes these ladies can make fairly scream. If life really is just economics and biology and nothing more, one can imagine a campaign of approbation at this great new prosperity on the Underground which will make London Transport pay at last. Few of the wealthy, sensitive cultivated foreigners who were shocked by street prostitution travel that way, so they will no longer be offended. There was a scheme projected lately by the civilised French to spray deliciously scented disinfectants in their Metro stations. The London railways could now go one better—lilac at Kew, roses at Green Park, mimosa at Earl's Court, carnation at Hyde Park Corner, sweet william at Marble Arch. After all, on purely economic grounds, we go on encouraging the homicidal motor-car industry to produce more and more and more cars before we can control and reduce to reason the motor-cars we have already got. If a sudden frenzied interest in natural history created a demand for the mass-breeding and import of lions and tigers, wouldn't we ensure that the lions and tigers we already have were not eating 5,000 people a year, economics or no economics? I hope so, for there is no substitute for a coherent philosophy of life.

RICHARD ROE.

BROADCAST ON LAW

"Responsibility for Advice" is the title of the B.B.C. Third Programme "Law-in-Action" talk on Saturday, 26th September. Mr. Norman Marsh, Fellow of University College, Oxford, will consider *Woods* v. *Martins Bank, Ltd., and Another* [1958] 1 W.L.R. 1018, and five other relevant cases.

REVIEWS

Divorce Forms and Precedents. By D. R. LE B. HOLLOWAY. pp. xiiii and (with Index) 240. 1959. London: The Solicitors' Law Stationery Society, Ltd. £2 5s. net.

"Exciting" is not a word which can often be applied to the appearance of a new book of forms and precedents without incurring a charge of extravagance, but in this case it is perhaps justified. There was a serious need for a complete collection of precedents for use in the Divorce Division, and no doubt both counsel and solicitors will be grateful to Mr. Holloway for gathering together in one book all that they are likely to need. Examples of all the documents which can be required in divorce and ancillary proceedings—pleadings, summonses, orders, affidavits, consents, notices, decrees—are set out clearly and fully, with careful regard to the details which so often prove the stumbling-block of drafting. Before each section there is an explanatory text which gives a useful summary of procedural rules.

In pleadings style is often disregarded, but quite wrongly, for taut and lucid drafting is evidence of a disciplined grasp of a case. Too often divorce pleadings are lax and diffuse, the confusion of form reflecting the draftsman's inability to marshal his facts and to see them in proper proportion. While no amount of precedents can bestow style, the intelligent use of such forms as are brought together here must be of enormous help. One of the most valuable features of the book is the time it will save by referring to all the appropriate rules where they affect pleadings: this is very welcome following the recent spate of changes which have made divorce drafting something of a nightmare. With this book as a guide it will be possible to dispense with the anxious thumbing of tattered copies of the latest rules, at least until the next crop appear.

The general scope and execution of the book cannot be criticised, but there are a few minor matters of complaint. The paragraphs given as examples of particulars of cruelty are an invitation to a request for further and better particulars; and is it really correct to say that "as many specific allegations [of cruelty] as possible" should be pleaded, in the light of the words of Denning, L.J., in *Thompson* v. *Thompson* [1957] 2 W.L.R. 138? Perhaps it is a matter of personal opinion, but to the reviewer there is something anomalous in casting a discretion statement in a rigid form as if it were an affidavit. A more serious criticism is that the precedents for nullity petitions on the grounds of wilful refusal and sexual incapacity give no indication that particulars should be given of the alleged refusal and incapacity

Solicitors will find the section dealing with enforcement of special interest; it includes details of the new procedure for registration of High Court maintenance orders in magistrates' courts and *vice versa*, and for attachment of earnings under the Maintenance Orders Act, 1958. Altogether this is a most welcome book, not the least of its virtues being that it opens a window through which outsiders may catch an inside view of the workings of the Divorce Registry.

Kennedy's C.I.F. Contracts. Third Edition. By DENNIS C. THOMPSON, M.A., of the Inner Temple, Barrister-at-Law. pp. xx and (with Index) 192. 1959. London: Stevens & Sons, Ltd. £2 2s. net.

The C.I.F. contract plays an important part in international trade and Kennedy's exposition of the law relating thereto has been a valuable guide to both the practitioner and the student.

The third edition takes into account recent decisions including the important House of Lords review of these contracts in *Comptoir D'Acbut* v. *Luis de Ridder Limitada* [1949] A.C. 293, and the decisions of McNair, J., and Diplock, J., in relation to the closing of the Suez Canal.

For those not familiar with this book, there are five parts to the work: first a discussion of the nature of a C.I.F. contract, second an exposition of the duties of the parties in relation to the shipment, third an explanation of the function of the bill of lading, followed by the problem of insurance and, finally, "Tender and Payment."

Copious but pertinent use is made throughout the text of extracts from judgments on all points of importance thereby providing authentic material for guidance of the reader.

For anyone concerned with commercial law this book will often be consulted if added to his library and it may be relied on to give the guidance needed on everyday problems in this field.

The True Book About the Old Bailey. By LEONARD GRIBBLE. pp. 141. 1959. London: Frederick Muller, Ltd. 8s. 6d. net.

This book might be described as being a light history of the Old Bailey. Its readable style cannot fail to appeal to those in the mood for diversion with a morbid touch. Torture and executions of years gone by are described together with accounts of hanged men returning to life and the "hanging invitations," formerly sent out by governors of Newgate, reading "We hang at eight and breakfast at nine." Reference is made to various famous criminals such as Jack Sheppard, Jonathan Wild, Maria Manning, Walter Watts, Crippen, Edith Thompson, Heath and Christie. This is not a book for the serious student, who would, indeed, be led astray by the statement on p. 139 that "no citizen is by right exempt from jury service unless he is a practising barrister"; anyone interested to read the long list of persons so exempt should turn to Halsbury's Laws, 3rd ed., vol. 23, pp. 6 to 10.

BOOKS RECEIVED

Oyez Table No. 11: Penalties, etc., for the commoner Road Traffic Offences on Summary Conviction. Compiled by J. LIONEL WOOD, M.C. 1959. London: The Solicitors' Law Stationery Society, Ltd. 2s. 6d. net.

Some Pillars of English Law. By J. DUHAMEL and J. DILL SMITH. Translated and Revised by R. HALL. pp. xiv and (with Index) 178. 1959. London: Sir Isaac Pitman & Sons, Ltd. £1 net.

De-Rating and Rating Appeals. Volume 29—1958. Edited by F. A. AMIES, B.A., F.C.I.S., F.R.V.A., of Gray's Inn and the North Eastern Circuit, Barrister-at-Law. pp. xxii and 887. 1959. London: The Solicitors' Law Stationery Society, Ltd. £4 net.

Hudson's Building Contracts. By E. J. RIMMER, of Lincoln's Inn, Barrister-at-Law, and I. N. DUNCAN WALLACE, of the Middle Temple, Barrister-at-Law. pp. 540. 1959. London: Sweet & Maxwell, Ltd. £4 4s. net.

Wills and Bequests

Mr. HARRY ALLEN BLOCK, solicitor, of Esher, left £50,287 net.

Mr. F. H. EGGAR, solicitor, of Goring, left £40,980 net.

Mr. ERNEST WILLIAM HINCHCLIFFE, solicitor, of Halifax, left £10,654.

Obituary

Mr. JOHN RICHARD CLARK, managing clerk to Hand, Morgan & Owen, solicitors, of Stafford, died on 11th August, aged 62. He had been with the firm for thirty-nine years.

Mr. NORMAN SPOTTISWOODE ROBSON, solicitor, of Rotherham, died on 16th August. He was admitted in 1919.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note.

Court of Appeal

LANDLORD AND TENANT: NEW TENANCY: INTEREST OF LANDLORD PURCHASED WITHIN FIVE YEARS

Frederick Lawrence, Ltd. *v.* Freeman, Hardy & Willis, Ltd.

Lord Evershed, M.R., Romer and Pearce, L.JJ. 2nd July, 1959

Appeal from Roxburgh, J.

By an underlease of 1933, business premises were demised for a term expiring on 22nd March, 1959. That underlease had become vested in the applicants, the tenants. By a lease dated 10th March, 1952, the premises were demised to *S*, Ltd., for the term of ninety-nine years subject to the underlease of 1933. By an agreement dated 30th June, 1954, entered into between *S*, Ltd., and the present landlords of the premises, the landlords agreed to purchase the goodwill of the business carred on by *S*, Ltd., together with certain freehold and leasehold premises and it was provided that the consideration for the sale should be attributed between the freehold and leaseholds, which latter included the business premises, as therein provided. No sum was attributed to certain of the leasehold properties which included the business premises. Pursuant to that agreement by a transfer of 1st November, 1954, the business premises were transferred to the landlords. No consideration was expressed for the transfer but it contained a declaration that the covenants implied under s. 77 (1) (*c*) of the Law of Property Act, 1925, should be deemed to be incorporated in it. That transfer was registered on 13th November, 1954. On 28th March, 1958, the landlords served on the tenants a notice under s. 25 of the Landlord and Tenant Act, 1954, terminating that tenancy on 22nd March, 1959, and stating that they would oppose an application for the grant of a new tenancy on the ground that on the determination of the tenancy the landlords intended to occupy the premises for the purposes of a business to be carried on by them within s. 30 (1)(*g*). The tenants applied for a new lease contending that the landlords were precluded from opposing the application under s. 30 (2).

ROMER, L.J., reading the judgment of the court, said that the tenants' contention was that the interest of the landlords was "purchased" after the beginning of the period of five years which ended with the termination of the tenants' current tenancy within s. 30 (2). It was clear on authority that "purchased" in the subsection meant "bought for money." It would, however, exclude a covenant, and if the only relevant document was the instrument of transfer of November, 1954, in which the only considerations moving from the landlords were the covenants implied under s. 77 of the 1925 Act, it would not be possible to say that the landlords "purchased" the reversion of the premises. But it was agreed that to ascertain the true nature of the transaction between *S*, Ltd., and the landlords under which the latter acquired their interest in the premises, it was permissible to look to the contract which preceded the transfer for the purpose of seeing whether the interest was "purchased" by the landlords. Looking at the agreement as a whole it was clear that the transaction embodied therein was intended by the contracting parties to be one of sale and purchase and nothing else. The "interest of the landlord" within s. 30 (2), being presumably the interest by virtue of which the landlord opposed the tenants' application for a new lease, was, in the present case, a legal interest in reversion expectant on the termination of the tenancy, and the landlords "purchased" this interest on the date when the agreement with *S*, Ltd., was signed, *viz.*, 30th June, 1954. They did not acquire the position or status of landlords until 13th November, 1954, when the purchase was completed and registered; but the relevant date for the purposes of s. 30 (2) was when a landlord purchased his interest and not when he filled the character of landlord. Accordingly, the landlords' interest had been purchased within five years of the termination of the tenants' current tenancy and the landlords were not entitled to oppose the tenants' application for a new tenancy. Appeal dismissed.

APPEARANCES: *Lionel Blundell*, Q.C., and *Ronald Bernstein* (*Titmuss, Sainer & Webb*); *John Arnold*, Q.C., and *Allan Heyman* (*Isadore Goldman & Son*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[3 W.L.R. 275**

RATING: ASSESSMENT: WHETHER PURCHASE PRICE OF PROPERTY RELEVANT: ONUS OF PROOF BEFORE LANDS TRIBUNAL

Sole *v.* Henning (Valuation Officer)

Lord Evershed, M.R., Romer and Sellers, L.JJ.

17th July, 1959

Appeal from the Lands Tribunal.

A ratepayer, the owner of a dwelling-house near an aerodrome, appealed to the Lands Tribunal against his rating assessment by the local valuation court. The assessment was upheld and the ratepayer appealed to the Court of Appeal on the ground that, the appeal being a rehearing, it was for the Lands Tribunal to make its own assessment of value and the tribunal had held that the onus was on him to prove that the assessment of the local valuation court was wrong. He sought to rely on the price he had paid for the house as evidence of its rateable value.

LORD EVERSHED, M.R., said that the tribunal in matters of this kind was entitled to say: "I am not going to overturn the decision of the court below unless I am satisfied by him who complains of it that there is something wrong as a matter of fact in that court's findings." It was quite true that there was a rehearing of the evidence before the tribunal, but the tribunal was entitled under the Lands Tribunal Rules, 1956, r. 45 (4), to refuse to reverse the decision of the local valuation court unless satisfied by the ratepayer that the valuation court's decision was wrong. As to the contention that the notional figure under s. 2 (2) of the Valuation for Rating Act, 1953, should be based on the selling price of the property, it was settled by *Peche* v. *Wilkins* (1959), 52 R. & I.T. 86, that the selling price was not a safe guide in arriving at that figure. There was therefore no error of law shown and in so far as the question was one of fact, it had been determined conclusively.

ROMER and SELLERS, L.JJ., agreed. Appeal dismissed.

APPEARANCES: *J. R. Phillips* (*Solicitor, Inland Revenue*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[1 W.L.R. 769**

RATING: ADVERTISING SIGN: BASIS OF ASSESSMENT

Imperial Tobacco Co. (of Great Britain and Ireland), Ltd. *v.* Pierson (Valuation Officer)

Lord Evershed, M.R., Romer and Sellers, L.JJ.

28th July, 1959

Appeal from the Lands Tribunal.

By an agreement of 21st June, 1955, a company was granted the exclusive right of fixing and exhibiting upon certain premises a "flashing neon advertising sign" and of making all necessary connections for its working. The agreement provided that the sign and apparatus were to remain the property of the company. Pursuant to the agreement the company erected the sign and it was in existence on 12th April, 1956, the date when the company was assessed in respect of the "right" which they had obtained under the agreement. It was conceded that the right was a "separate hereditament" for the purposes of s. 56 of the Local Government Act, 1948, and that the sign constituted a "structure." The question was whether the rateable value should be determined under s. 56 of the 1948 Act and s. 22 (1) (*b*) of the Rating and Valuation Act, 1925, on the basis of the right granted to the company by the agreement of 21st June, without taking into account the value of the work subsequently done.

LORD EVERSHED, M.R., said that the question must be answered as on the date of the proposal, *viz.*, 12th April, 1956; but counsel for the company contended that the "right" on that date was the same as that which was conferred on 21st June, 1955, by the agreement, and was not to be enhanced in consequence of anything done by the company in the course of the existence of the right. So it was argued that the right was limited to exhibition of advertisements on the structure to be erected and had not become a right to exhibit on a structure when erected. But once it was conceded that "structure" included the actual physical framework and sign, then that "right" must include

the right to exhibit on or by means of the structure when erected and expressed as "to be erected" in that agreement.

ROMER and SELLERS, L.J., delivered concurring judgments. Appeal allowed.

APPEARANCES: *Maurice Lyell*, Q.C., and *J. R. Phillips* (*Solicitor, Inland Revenue*); *Harold Williams*, Q.C., and *Peter Mason* (*A. W. Martin*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[1 W.L.R. 761**

Queen's Bench Division

FACTORY: DANGEROUS MACHINERY: INJURY TO VOLUNTEER

Napieralski *v.* Curtis (Contractors), Ltd.

Havers, J. 27th February, 1959

Action tried at Nottingham Assizes.

The plaintiff was employed by the defendants in their factory as a joiner and french polisher. In the course of his employment he used a circular saw which was not securely fenced as required by s. 14 (1) of the Factories Act, 1937, and reg. 10 (*c*) of the Woodworking Machinery Regulations, 1922. On 28th October, 1955, his duties for the defendants having terminated for the day, he remained on the premises and volunteered to help a fellow workman with a private job which involved the use of the circular saw. By reason of the defective condition of the saw the plaintiff's hand was injured. He brought this action for damages against the defendants alleging negligence at common law and breaches of statutory duty.

HAVERS, J., holding that the plaintiff's position was that of a gratuitous licensee, said that the word "working" in s. 14 (1) of the 1937 Act was not wide enough to cover what the plaintiff was doing at the time. He was a mere volunteer not employed under any contract of service at the time or for services. He was not at the time employed in manual labour; he was voluntarily engaged in manual labour on his own account and not in the course of his employment or for the benefit of his employers. If he could be said to be "working" he was not working under an agreement with the defendants or under any contract of service. Therefore, the plaintiff was not within the section or regulations and the defendants owed no duty to him at the time he was operating the saw and sustained the injuries. The action therefore failed. Judgment for the defendants.

APPEARANCES: *R. K. Brown*, Q.C., and *T. R. Heald* (*Richards and Flewitt*, Nottingham); *A. E. James* (*Browne, Jacobson and Roose*, Nottingham).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law]

Restrictive Practices Court

TRADE ASSOCIATION'S ARRANGEMENT PERMITTING A SELECTED MEMBER ONLY TO REDUCE PRICE TO LOWEST EVALUATED PRICE: SPECIAL CIRCUMSTANCES IN INDUSTRY: WHETHER ARRANGEMENT CONTRARY TO PUBLIC INTEREST

***In re* Water-Tube Boilermakers' Agreement**

Upjohn, J., Sir Stanford Cooper, Mr. W. L. Heywood and Mr. W. G. Campbell, 31st July, 1959

Reference.

The Water-Tube Boilermakers' Association was a trade association of makers and designers of land water-tube boilers for central power stations and industrial boilers. The industry's position was special: though considerable in size, it was concentrated in the hands of eight or nine companies, six of whom, all old-established, large, efficient, financially strong companies with world-wide reputations for the highest quality work, formed the members of the association. It was a highly specialised industry and boilermakers required to maintain staffs of highly qualified scientists, technicians and skilled artisans, involving high overheads, much of which represented cash outgoings. Research was very important and members carried out both collective and individual research at great expense. Subcontracting was a feature of the industry. In the home market there was only one customer, the Central Electricity Generating Board, for central power house boilers; from 1952 to 1958 the value of its orders was £194,000,000, being 83 per cent. of the total home orders and 56 per cent. of the total combined home and overseas orders. Since 1954 the board had placed its contracts by competitive tender; it had no desire to force prices down to an uneconomic level and was anxious that persons invited to tender should put in prices giving them a small but reasonable profit. The industry had a substantial export side, about 40 per cent. of members' activities being concerned with the export of both types of boilers. The present trend was towards large boilers giving rise in the future to few, but very large, orders, each taking several years to complete and costing some millions of pounds. The industry was in a state of recession, there being too few orders leaving a substantial capacity unfilled, which was likely to last for five or six years, after which there would be an upturn of activity. On the long-term view demand would be likely to exceed the present capacity and it would not be in the national interest if any of the members were forced out of business or the capacity reduced. The association's agreement provided for an arrangement, operating in the United Kingdom, the Commonwealth and a number of other overseas territories, the object of which was to spread the available work having regard to the needs of members. When more than one member received an inquiry for a boiler, a meeting of the interested members was held at which a "selected member" was chosen, consideration being given to a record of trading for the area in question and to customer preference. After the selection details of the prices which members intended to quote were disclosed and evaluated on a common basis; no member might thereafter alter his tabled price except the selected member who had the option of reducing to the level of the lowest evaluated price, but not below it. The information gained at the meeting enabled members to keep a close check on the general level of prices, and their prices were not inflated, but were competitive and keen. Under the arrangement prices were higher than they would otherwise be in times of slack demand, but without it there would be a severe cut and prices would become depressed to such an extent that few, if any, boilermakers would be able to conduct their business at a profit. In the case of overseas inquiries the principal object of members was to bring a contract home to this country and the rules were applied more flexibly; greater emphasis was given to customer preference, and there was a greater exchange of technical and commercial information than in the case of an inquiry from the United Kingdom. Some members maintained staffs and offices overseas, and in the past members had been highly successful in securing orders against foreign competition. The respondent association and members sought to justify the arrangement under s. 21 (1) of the Restrictive Trade Practices Act, 1956, contending, under para. (*b*), that the arrangement, in preventing prices from falling to an uneconomic level, preserved capacity which in the national interest would be needed in the future and maintained research, quality and sub-contracting; under para. (*d*), that it was reasonably necessary to enable the members to negotiate fair terms with the Central Electricity Generating Board, which controlled a preponderant part of the market; and under para. (*f*), that its abrogation would result in a reduction in the volume of earnings of the export business which was substantial in relation to the whole business of the industry.

UPJOHN, J., reading the judgment of the court, said that they were unable to accept the respondents' argument under para. (*b*). There was no evidence to show that the members lacked the resources to keep in business and retain their key personnel during the contemplated recession; if they thought it worth while they would continue to maintain their collective and individual research departments, while quality and sub-contracting would be maintained whether the arrangement remained in being or not; any tendency to limit sub-contracting to members was a detriment to the public. Without attempting to define "preponderant" in para. (*d*), the court was satisfied that the Central Electricity Generating Board was properly described as controlling a preponderant part of the market. The paragraph did not necessarily require proof of the existence of a preponderant buyer likely to try to enforce unfair terms; it was sufficient if in fact in all the circumstances without the restriction suppliers would not be enabled to negotiate fair terms, but, in the hope of getting an occasional contract, were

likely to tender at uneconomic prices—but that was not to say that whenever a preponderant buyer employed the method of competitive tender a case for some restriction was made out. The conditions for the operation of the paragraph were satisfied but the arrangement was not "reasonably necessary" to enable members to negotiate fair terms with the board: it applied not only to the board's contracts but to all other contracts at home and abroad and was unnecessarily wide, and the claim under para. (*d*) failed on that ground. In the case of overseas inquiries, the arrangement enabled a member to put in the keenest possible price, and the combination of that and customer preference must help to secure business. The consultation between members, each contributing the background of knowledge essential to a proper assessment of market possibilities was of great, perhaps crucial, value, and if the arrangement were abolished, there was likely to be a reduction in the foreign orders obtained by members. "Substantial" in para. (*f*) referred to the reduction to be expected in the volume of earnings of the export business and not to the export business itself; while it was not possible to express any quantitative views, what was important was that the size of boilers was increasing so that the loss in any one year of even one overseas contract might represent a substantial reduction in the export figures of the industry. The court had come to the conclusion that abolition of the arrangement would be likely to cause a substantial reduction in the volume of earnings of the export business and accordingly the respondents satisfied para.(*f*). In the final balance under the general requirement at the end of the subsection the real detriment to be weighed against the reduction in exports was that purchasers of boilers might have to pay rather more than they would otherwise for their boilers, and in all the circumstances of the case that did not outweigh the national benefit resulting from the maintenance of exports which the court anticipated if the scheme continued. Accordingly the respondents had succeeded in discharging the onus cast upon them by s. 21 of proving that the arrangement was not contrary to the public interest. Declaration accordingly.

APPEARANCES: *B. J. M. MacKenna*, Q.C., and *D. A. Grant* (*Claremont, Haynes & Co.*); *John Megaw*, Q.C., and *W. A. Bagnall* (*Treasury Solicitor*).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Delays

Sir,—From time to time this profession bleats about the delays by the Land Registry, the Adjudication Branch, Local Land Charges Registrars and sundry other authorities that dictate the pace at which we can serve the public. What about putting our own house in order?

Over a month ago we wrote to a firm of London colleagues. They act for the insurance company that holds the mortgage on our client's semi-detached. Would they kindly expedite an abstract of title on the usual terms, as the property has been sold subject to contract? After several reminders by letter and trunk calls, we have ascertained as follows: (*a*) their copy-typists take long holidays; (*b*) their photographic machine is temporarily out of action; (*c*) the gentleman dealing with the matter (four digits and half the alphabet with oblique strokes) will ring back later: and (*d*) they might even have to send us the deeds on loan, if we can hang on until the next meeting of the board of directors. In the meantime we are being chased by the following: (1) the client, (2) his wife, (3) the rest of his family, (4) the proposing purchaser's solicitors, (5) the solicitors to the owner of the house our client wants to buy, (6) two firms of estate agents, (7) a surveyor, (8) a bank manager, (9) a removal contractor, (10) a builder and decorator, (11) a man with a roll of linoleum sticking through the window of his car, and (12) somebody who refuses to give his name but who will give £500 less for our client's property if (or when) the present deal falls through.

Apart from the solicitors, none of the above (and the list is still open) is ready to believe that we are innocent of this outrage. Are we not all hand-in-glove? And who did all the moaning about estate agents getting contracts signed?

Northampton. MAX ENGEL & CO.

Penny on the Bottle?

Sir,—With reference to the article under this heading in your issue of 28th August, is the customer bound to return the bottle to the retailer from whom he acquires it? If I buy a bottle of Lucozade from the cut-price grocer, I pay a total of 2s. 7d. If I then return the bottle, not to the cut-price grocer, but to another retailer who normally charges the distributor's retail price of 2s. 9d., I get 3d. refund. So I have obtained the actual drink for 2s. 4d., instead of 2s. 6d.!

J. H. ALCOCK.

Mansfield.

"THE SOLICITORS' JOURNAL," 3rd SEPTEMBER, 1859

ON the 3rd September, 1859, THE SOLICITORS' JOURNAL wrote: "The light way in which briefs are handed over in all our courts, irrespective of the wishes of the litigants and their solicitors, is a singular instance of the conventional morality which a class, *as a class*, readily adopts, though each member of the body would repudiate it in his private life. The wrong done by returning a brief, even with the fee, at the last moment is very great and may perhaps be fatal to the success of the case but, at any rate, the client obtains, at whatever disadvantage as to time and preparation, the aid of an advocate whose heart is in his work and who is properly remunerated for his labour. But in the much more common event of the barrister . . . handing over the brief (himself retaining the fee) to some unpaid junior who is willing to 'devil' for the sake of the practice and the notoriety, the client is injured without the possibility of reparation. There is no assize, no sessions, no sittings at *nisi prius* where this dishonest practice does not proceed, to the annoyance of solicitors, the loss of suitors and the great discredit of the Bar. It is difficult to understand on what grounds of professional honour or public convenience such a practice is allowed to continue. The great majority of barristers are directly interested in its abolition, as its chief effect, so far as the Bar is concerned, is to create a monopoly of profit for a small portion of their members."

TRUCK ACTS COMMITTEE

A committee comprising businessmen, lawyers and trade union leaders has been appointed by Mr. Macleod, Minister of Labour, to review the operation of the Truck Acts. Among those appointed are: Mr. DAVID KARMEL, Q.C., Recorder of Wigan (chairman); Sir ARCHIBALD HARRISON, former Ministry of Labour solicitor; Mr. DONALD HARGREAVES HASLAM, solicitor, legal adviser to the National Coal Board; Mr. I. H. SHEARER, Q.C., and Mr. N. A. SLOAN, Q.C.

IN WESTMINSTER AND WHITEHALL

STATUTORY INSTRUMENTS

Fire Services Act, 1959 (Commencement No. 2) Order, 1959. (S.I. 1959 No. 1452.) 4d.
General Optical Council (Registration and Enrolment Rules) Order of Council, 1959. (S.I. 1959 No. 1432.) 6d.
Import Duty Drawbacks (No. 9) Order, 1959. (S.I. 1959 No. 1474.) 5d.
Importation of Carcases and Animal Products (Amendment) Order, 1959. (S.I. 1959 No. 1433.) 5d.
Manorial Documents Rules, 1959. (S.I. 1959 No. 1399.) 5d.
Milk (Great Britain) Order, 1959. (S.I. 1959 No. 1454.) 6d.
Milk (Northern Ireland) (Amendment) Order, 1959. (S.I. 1959 No. 1455.) 4d.
Stopping up of Highways Orders:—
(City and County of Bristol) (No. 7). (S.I. 1959 No. 1416.) 5d.
(County of Hampshire) (No. 6). (S.I. 1959 No. 1453.) 5d.
(Counties of Leicester and Northampton) (No. 1). (S.I. 1959 No. 1419.) 5d.
(London) (No. 36). (S.I. 1959 No. 1442.) 5d.
(London) (No. 37). (S.I. 1959 No. 1443.) 5d.
(County of Middlesex) (No. 4). (S.I. 1959 No. 1444.) 5d.
(County of Monmouth) (No. 6). (S.I. 1959 No. 1440.) 5d.
(County of Norfolk) (No. 3). (S.I. 1959 No. 1430.) 5d.
(City and County Borough of Portsmouth) (No. 7). (S.I. 1959 No. 1445.) 5d.
(City and County Borough of Sheffield) (No. 5). (S.I. 1959 No. 1441.) 5d.
(County of Stafford) (No. 11). (S.I. 1959 No. 1446.) 5d.
(County of Surrey) (No. 6). (S.I. 1959 No. 1447.) 5d.
Tuberculosis Orders:—
(Northern England Attested Area). (S.I. 1959 No. 1456.) 5d.
(Wales and Southern England Attested Area). (S.I. 1959 No. 1457.) 5d.
(Compensation) (Amendment). (S.I. 1959 No. 1460.) 5d.
(Slaughter of Reactors) (Amendment). (S.I. 1959 No. 1461.) 5d.

SELECTED APPOINTED DAYS

August
29th Landlord and Tenant (Furniture and Fittings) Act, 1959.
Obscene Publications Act, 1959.

September
1st County Court Districts (Wells) Order, 1959. (S.I. 1959 No. 1424.)
Opticians Act, 1958, ss. 2, 3 (except subs. (3)), 4 and 7 (2).
7th Legal Aid (Assessment of Resources) Amendment Regulations, 1959. (S.I. 1959 No. 1350.)
Metropolitan Magistrates' Courts (Marylebone) Order, 1959. (S.I. 1959 No. 1313.)
National Assistance (Determination of Need) Amendment Regulations, 1959. (S.I. 1959 No. 1241.)
National Assistance (Disregard of Assets) Order, 1959. (S.I. 1959 No. 1244.)

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be brief, typewritten in duplicate, and accompanied by the name and address of the sender on a separate sheet, together with a stamped addressed envelope. Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

Landlord and Tenant—Dwelling-house let to Employee by Employer—Whether Termination of Employment Automatically Terminates Tenancy

Q. We act on behalf of a limited company, the owners of a dwelling-house, which was let on 25th January, 1958, to one of their employees "from week to week until the tenancy is determined either by the determination of the contract of service existing between the parties or as thereinafter provided at the weekly rent of £*x*." The written form of tenancy agreement contains, in addition to the above wording and certain other provisions, the following clause: "It is mutually agreed as follows: (3) The landlords are letting the said house to the tenant for the sole purpose of the tenant being more conveniently situated as a warehouseman in the employ of the landlords and that the occupation of this house by the tenant, is a condition of such employment and on the determination thereof this tenancy shall also determine forthwith." On 12th February, 1959, the tenant's employment terminated and the landlords wrote to the tenant stating that they required possession of the property as the tenancy had lapsed and asking for the keys as soon as possible. We were informed of the position on 2nd April and up to that date the tenant had continued to occupy the property at the same rent. There have been no arrangements regarding this rent and it has been paid in exactly the same way as the previous rent. We have endeavoured to persuade the tenant to vacate, but as yet he has not given up possession and continues to pay the same rent, although there are some small arrears. Do you consider that a new tenancy has been created by our clients' acceptance of rent after the termination of the service tenancy? If so is the tenancy a decontrolled tenancy by reason of its commencement after the coming into operation of the 1957 Act? If the landlords proceed for possession should they proceed under the written service agreement or first serve notice to quit in respect of the new tenancy?

A. In our opinion: (i) The Rent Acts do not apply to the tenancy, it being assumed that the employee was not tenant of the dwelling-house under a controlled tenancy immediately before 25th January, 1958 (Rent Act, 1957, s. 11 (2)). (ii) We do not consider that the termination of the employment automatically terminated the tenancy: see "Landlord and Tenant Notebook" in our issue of 15th February, 1958, at p. 118 (in particular the concluding paragraph). (iii) Even if it did, the facts are not, in our opinion, covered by such decisions as *Marcroft Wagons, Ltd.* v. *Smith* [1951] 2 K.B. 496 and *Clarke* v. *Grant* [1950] 1 K.B. 104 so as to negative the creation of a new tenancy. (iv) Accordingly, we consider that a notice to quit should be served before proceedings are taken, the notice being a four weeks' one (as required by the Rent Act, 1957, s. 16).

Mortgage Restriction—"Periodical Instalments"

Q. A private mortgage for £800 of a shop and dwelling-house dated 15th March, 1920, contains a proviso that if interest is paid by the borrower within seven days of its becoming due and if the sum of £200 is paid off before 15th March, 1925, the lender will not during the period of ten years from the date of the mortgage take any steps to enforce the security thereby constituted. Is this proviso sufficient to bring the mortgage within the exception contained in the first proviso to s. 7 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920?

A. The answer does, as is no doubt appreciated, depend on the meaning to be attributed to the expression "periodical instalments" in the proviso. We know of no authority in point, but our opinion is that while it might be possible to establish that the principal money was in this case repayable by instalments, to suggest that there were "periodical instalments" (the usual feature of a building society mortgage) would be to invite a court to put a greater strain on the language of the proviso than it is capable of bearing. While an argument that the periods need not be evenly spaced or the payments equal might possibly be acceded to, we consider that in order to satisfy the requirement there must be more than one recurrence of liability to repay part of the £800.

NOTES AND NEWS

COLONIAL APPOINTMENTS

The following promotions and appointments are announced in the Colonial Legal Service: Miss P. R. BARROW, to be Tax Officer, East Africa High Commission; Mr. I. R. BURLEY, to be Investigation Officer, Income Tax, East Africa High Commission; Mr. H. BURROWES, to be Magistrate, Antigua; Mr. F. CARNIE, to be Probation Officer, Bahamas; Mr. K. L. GORDON, Puisne Judge, Windward and Leeward Islands, to be Puisne Judge, British Guiana; Mr. H. F. G. HOBSON, to be Crown Counsel, Hong Kong; Mr. E. J. A. McCARTHY, Deputy Registrar and Marshall, Trinidad, to be Registrar and Marshall, Trinidad; Mr. J. H. ROBSON, Temporary Legal Secretary, Federation of Nigeria, to be Legal Secretary, Southern Cameroons; Mr. A. D. SCHOLES, District Judge, Hong Kong, to be Puisne Judge, Hong Kong.

BUILDING SOCIETIES

HOUSE PURCHASE AND HOUSING ACT, 1959

The following building societies have been designated for the purposes of s. 1 of the House Purchase and Housing Act, 1959: Brighton and Southern Counties Permanent Building Society, Haywards Heath and District Permanent Benefit Building Society, St. Albans Building Society, Stafford Permanent Building Society. The most recent list of building societies so designated was published on p. 678, *ante*.

WELSH COURTS: INTERPRETERS' FEES

As from 14th September next the scale of fees payable to interpreters under App. II to the Welsh Courts (Oaths and Interpreters) Rules, 1943, is amended by the Welsh Courts (Interpreters) Rules, 1959 (S.I. 1959 No. 1507/L. 11). In Assize Courts and Quarter Sessions the daily fees will be £4 4s. in respect of a period of four hours or more, or £2 2s. if the period is less than four hours. The corresponding amounts in other courts will be £3 and £1 10s.

DEVELOPMENT PLANS

PROPOSALS FOR ALTERATIONS OR ADDITIONS SUBMITTED TO MINISTER

Title of plan	Districts affected	Date of notice	Last date for objections or representations
Barnsley County Borough Council	—	13th August, 1959	10th October, 1959
Buckinghamshire County Council	Marlow Urban District, Wycombe Rural District	5th August, 1959	
Do. do.	Slough Borough	23rd July, 1959	11th September, 1959
Dorset County Council	Dorchester Rural District ..	22nd July, 1959	11th September, 1959
Durham County Council	—	11th August, 1959	30th September, 1959
Flintshire County Council	Connah's Quay and Hawarden Urban Districts; Flint Borough	26th June, 1959	10th October, 1959
Gloucestershire County Council	Cheltenham Rural District; Tewkesbury Borough	18th August, 1959	3rd October, 1959
Hampshire County Council	—	28th July, 1959	19th September, 1959
Northumberland County Council	Longbenton and Seaton Valley Urban Districts	21st August, 1959	30th October, 1959
Sunderland County Borough Council	—	5th August, 1959	24th September, 1959
East Sussex County Council	Hailsham parish	21st August, 1959	19th October, 1959
West Sussex County Council	Chichester City	11th August, 1959	30th September, 1959

AMENDMENTS BY MINISTER

Title of plan	Districts affected	Date of notice	Last date for applications to High Court
Anglesey County Council	—	24th July, 1959	6 weeks from 21st August, 1959
Kent County Council	—	29th May, 1959	6 weeks from 24th July, 1959
Lancashire County Council	—	28th July, 1959	6 weeks from 21st August, 1959
London County Council	Bethnal Green Borough ..	20th July, 1959	6 weeks from 21st August, 1959
Do. do.	Camberwell Borough	20th July, 1959	6 weeks from 21st August, 1959
Do. do.	Do. do.	22nd June, 1959	6 weeks from 14th August, 1959
Do. do.	Woolwich Borough	3rd June, 1959	6 weeks from 14th August, 1959
County of Northumberland	—	25th May, 1959	6 weeks from 30th July, 1959
Oxfordshire County Council	Littlemore, Horspath and Garsington parishes ..	14th July, 1959	6 weeks from 28th July, 1959
Do. do.	—	20th July, 1959	6 weeks from 29th July, 1959

APPROVAL BY MINISTER

Title of plan	Date of notice	Last date for applications to High Court
Northamptonshire County Council	10th July, 1959 ..	6 weeks from 30th July, 1959

Honours and Appointments

Mr. T. DOUGLAS BARLOW, assistant town clerk of Portsmouth since 1951, has joined the board of directors of Brickwoods, Ltd., brewers, and will take up his full-time duties at the end of September.

Mr. KENNETH HAROLD BIDMEAD has been appointed Assistant Official Receiver for the Bankruptcy District of the County Courts of Newcastle-upon-Tyne, Durham, Sunderland, Stockton-on-Tees, Darlington and Middlesbrough.

Mr. H. W. CARTER, T.D., solicitor, has been appointed Regional Secretary of the Southern, South Western and South Wales Region of the Central Electricity Generating Board.

Mr. R. O. SUTTON, solicitor, of Blackpool, has been appointed assistant deputy coroner for West Lancashire and Blackpool.

CORRIGENDUM

Owing to an error in the printed judgment in *Dun* v. *Dun* [1959] 2 W.L.R. 554; p. 326, *ante*, the year in which the testator made his will is stated to be 1919, whereas this should read 1939.

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